

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 5:08-cr-00189

ROY HATCHER,

Defendant.

MEMORANDUM OPINION AND JUDGMENT ORDER

Pending before the Court is a motion, brought pursuant to 18 U.S.C. § 3582(c)(2), to reduce Defendant's sentence based on a subsequent reduction in the applicable sentencing guideline. Pending before the Court is a motion, brought pursuant to 18 U.S.C. § 3582(c)(2), to reduce Defendant's sentence based on a subsequent reduction in the applicable sentencing guideline. On November 1, 2014, the United States Sentencing Guidelines were amended resulting in reductions in the guidelines in Section 2D1.1. The guideline reduction was given retroactive effect. Pursuant to the order entered on February 5, 2016, this case was designated for Standard consideration.

The Court has received the original Presentence Investigation Report (PSI), original Judgment and Commitment Order and Statement of Reasons, plea agreement, and addendum to the PSI from the Probation Office, and received any materials submitted by the parties on this issue and finds that the Defendant is a career offender¹, and, therefore is not eligible for a sentence

¹ Although the Defendant is currently ineligible because he is a career offender, the Court notes that the law regarding career offenders is currently the subject of much litigation and could change. Thus, is a determination if ever made

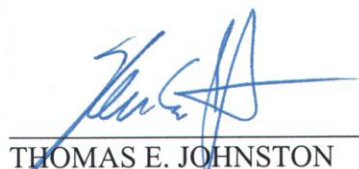
reduction.

Based on the foregoing considerations, the Court finds that the Defendant is ineligible for a sentence reduction based on the 2014 amendments to U.S.S.G. § 2D.1.1. Accordingly, Defendant's motions [ECF 39 and 44] for sentence reduction are **DENIED**.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to the Defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: January 12, 2017



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE

that this Defendant is no longer considered a career offender, the Court will entertain a motion by the Defendant to reconsider the ruling in this order.